

806 KAR 13:130. Experience modification factors for workers' compensation insurers.

RELATES TO: KRS 304.13-011(9), 304.13-057, 304.13-091, 304.13-415

STATUTORY AUTHORITY: KRS 304.13-415

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.13-415 requires that for each workers' compensation policy issued or renewed on or after May 1, 1997, insurers or licensed advisory organizations shall provide policyholders with written explanations of the policyholders' experience modification factor and the data and methodology utilized in the calculation of the factor. KRS 304.13-415 also provides that the commissioner shall establish guidelines for application of experience modification factors to be used in developing workers' compensation insurance rates. This administrative regulation establishes guidelines for the application of experience modification factors, and for the written explanations to policyholders regarding how the factors were calculated.

Section 1. Workers' compensation insurers that use experience modification factors shall develop an experience modification factor for each insured in accordance with the following provisions:

- (1) The experience modification factor shall be based upon three (3) full years of experience ending one (1) year prior to the effective date of the modification;
- (2) The experience modification factor shall be developed on an annual basis and shall remain effective for twelve (12) months;
- (3) Only one (1) experience modification shall apply to a given risk at any time and shall apply to all operations of the risk;
- (4) In developing premium for the experience modification factor, insurers shall:
 - (a) Apply the experience modification factor to the carrier's rates in force on the effective date of the experience modification factor; and
 - (b) Base the premium upon state qualifying premium amounts and the predetermined state limits, as both are identified in an advisory organization's publications approved by the commissioner; and
- (5) An experience modification factor may be determined for a risk if the risk has developed sufficient qualifying premium based on payroll and other exposures reported in accordance with the publications of the National Council on Compensation Insurance.

Section 2. Each insurer or advisory organization using experience modification factors shall provide the policyholder with a written explanation of the policyholder's experience modification factor in language reasonably calculated to inform the policyholder of the data and methodology utilized in the calculation of the factor, including the information specified in Section 1 of this administrative regulation.

Section 3. Incorporation by Reference. (1) "Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance", The National Council on Compensation Insurance, is incorporated by reference.

(2) This material may be inspected, copied or obtained at the Kentucky Department of Insurance, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (24 Ky.R. 431; Am. 895; eff. 10-13-97; TAm eff. 8-9-2007; Crt eff. 2-26-2020; TAm eff. 3-10-2020.)